

“What is Davis-Bacon?”

Presentation for MEA Sub-grantees

September 22, 2010



The Davis-Bacon Act

- The Davis-Bacon Act (DBA) applies to all ARRA-funded programs occurring in or on public buildings and/or public works.
 - County office buildings
 - Town Halls
 - Streets
 - Waste water treatment plants

The Davis-Bacon Act

- Requires all contractors (and subcontractors) to pay laborers and mechanics the prevailing wage for their labor classification, as determined by the U.S. Department of Labor (DOL).
 - Prevailing wages are determined on a county-by-county basis.
 - Prevailing wages are broken down by labor classification.
 - Plumber
 - HVAC Technician
 - If you are unsure about the labor classification, choose the classification that best describes the work being performed or ask your Account Manager for assistance.

Davis-Bacon Prevailing Wages

http://www1.eere.energy.gov/wip/docs/md_20100507.xls

Appendix A

Davis Bacon Wages for Maryland Counties

MARYLAND May 7, 2010 County/ Borough	WD #	Laborer		Batt, Blown, Foam Insulator (Insulator, Carpenter, Laborer)		Carpenter		Electrician (Other % FB is % of Hourly Wage Rate)			Plumber			HVAC Pipe Installation (HVAC Technician, Plumber, Pipefitter)			HVAC Duct Installation (HVAC Technician, Sheet Metal Worker)	
		Wage	Fringe	Wage	Fringe	Wage	Fringe	Wage	Fringe	Other	Wage	Fringe	Other	Wage	Fringe	Other	Wage	Fringe
Allegany	MD-16	\$11.14	\$0.00			\$18.05	\$6.39	\$27.90	\$14.26	\$0.00	\$28.38	\$10.63	\$0.00	\$17.50	\$2.49		\$18.34	\$5.44
Anne Arundel	MD-18	\$11.15	\$0.00	\$11.88	\$0.50	\$16.33	\$0.31	\$23.49	\$0.81		\$22.63	\$0.60		\$36.87	\$15.47	9 Pd Holidays	\$15.62	\$1.20
Baltimore	MD-19	\$11.76	\$0.00	\$11.88	\$0.50	\$18.05	\$6.39	\$23.49	\$0.81	\$0.00	\$18.00	\$0.00	\$0.00	\$36.22	\$14.80		\$15.67	\$1.20
Baltimore City	MD-20	\$11.65	\$0.00	\$11.88	\$0.50	\$16.50	\$5.29	\$24.97	\$0.81		\$24.36	\$0.00		\$36.22	\$14.80		\$15.62	\$1.20
Calvert	MD-22	\$12.11	\$2.18			\$26.38	\$7.00	\$24.13	\$7.99	3 Pd Holidays	\$22.66	\$7.99	9 Pd Holidays	\$36.87	\$15.47	9 Pd Holidays	\$34.04	\$12.76
Caroline	MD-12	\$11.00	\$0.00			\$16.90	\$2.29										\$28.45	\$14.39
Carroll	MD-25	\$11.23	\$0.00	\$11.88	\$0.50	\$18.05	\$6.39	\$23.49	\$0.81	\$0.00	\$22.43	\$0.00	\$0.00	\$36.22	\$14.80		\$15.62	\$1.20
Cecil	MD-54	\$10.11	\$0.00	\$11.88	\$0.50	\$14.70	\$0.00	\$23.49	\$0.81		\$22.43	\$0.00	\$0.00	\$36.22	\$14.80		\$15.62	\$1.20
Charles	MD-55	\$12.11	\$2.18			\$26.38	\$7.00	\$24.13	\$7.99	3 Pd Holidays	\$22.66	\$9.36	9 Pd Holidays	\$36.87	\$15.47	9 Pd Holidays	\$34.04	\$12.76
Dorchester	MD-4	\$10.12	\$0.00			\$15.79	\$1.20										\$28.45	\$14.39
Frederick	MD-83	\$12.11	\$2.18			\$24.09	\$9.90	\$33.50	\$12.55	5.25%	\$36.22	\$14.80	\$0.00	\$36.22	\$14.80		\$28.45	\$14.39
Garrett	MD-5	\$10.00	\$0.00			\$15.91	\$0.00											
Harford	MD-87	\$11.23	\$0.00	\$11.88	\$0.50	\$18.05	\$6.39	\$23.49	\$0.81	\$0.00	\$22.43	\$0.00	\$0.00	\$36.22	\$14.80		\$15.62	\$1.20
Howard	MD-87	\$11.23	\$0.00	\$11.88	\$0.50	\$18.05	\$6.39	\$23.49	\$0.81	\$0.00	\$22.43	\$0.00	\$0.00	\$36.22	\$14.80		\$15.62	\$1.20
Kent	MD-12	\$11.00	\$0.00			\$16.90	\$2.29										\$28.45	\$14.39
Montgomery	MD-84	\$11.50	\$2.01			\$26.38	\$7.00	\$24.13	\$7.99	3 Pd Holidays	\$22.66	\$9.36	9 Pd Holidays	\$36.87	\$15.47	9 Pd Holidays	\$34.04	\$12.76
Prince George's	MD-85	\$12.85	\$2.53			\$26.38	\$7.00	\$24.13	\$7.99	3 Pd Holidays	\$22.66	\$9.36	9 Pd Holidays	\$36.87	\$15.47	9 Pd Holidays	\$34.04	\$12.76
Queen Anne's	MD-12	\$11.00	\$0.00			\$16.90	\$2.29										\$28.45	\$14.39
Somerset	MD-88	\$12.14	\$2.00			\$23.53	\$14.09	\$22.50	\$10.20	5.00%	\$32.33	\$11.64	\$0.00	\$32.33	\$11.64		\$28.45	\$14.39
St. Mary's	MD-11	\$11.96	\$0.00			\$16.90	\$2.29										\$34.04	\$12.76
Talbot	MD-12	\$11.00	\$0.00			\$16.90	\$2.29										\$28.45	\$14.39
Washington	MD-86	\$11.14	\$0.00			\$18.05	\$6.39	\$27.90	\$14.26	\$0.00	\$36.22	\$14.80	\$0.00	\$17.50	\$2.49		\$18.34	\$5.44

Davis-Bacon Act Requirements

- Laborers and mechanics must be paid **weekly**.
- Certified payrolls must be submitted to MEA **on a weekly basis** as well, documenting the payment of the appropriate prevailing wage to laborers and mechanics working on an EECBG funded project.
- Payrolls must be certified by a person in a position of authority (i.e. manager/supervisor).
- A sample DBA certified payroll form is attached.

Davis-Bacon Certified Payroll Form

<http://www.dol.gov/whd/forms/wh347.pdf>

U.S. Department of Labor
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.



U.S. Wage and Hour Division

Rev. Dec. 2008

OMB No.: 1215-0149
Expires: 12/31/2011

NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>		ADDRESS		PROJECT AND LOCATION		PROJECT OR CONTRACT NO.														
PAYROLL NO.		FOR WEEK ENDING																		
(1)	(2)	(3)	(4) DAY AND DATE		(5)	(6)	(7)	(8) DEDUCTIONS			(9)									
NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	NO. OF WITHHOLDING EXEMPTIONS	WORK CLASSIFICATION	O R S	HOURS WORKED EACH DAY							TOTAL HOURS	RATE OF PAY	GROSS AMOUNT EARNED	FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS	NET WAGES PAID FOR WEEK		
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room 33502, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Davis-Bacon Act Requirements

- A Davis-Bacon compliance interview must be conducted on at least one Davis-Bacon laborer/mechanic per contractor.
- The Davis-Bacon Act requires that the D-B wage determinations and the D-B compliance poster be prominently displayed on the job site at all times.

Davis-Bacon Interview Form

http://www.energy.state.md.us/documents/DBAEmployeeInterviewForm_9_15_10.doc

Davis-Bacon Act Interview Record

EECBG Sub-Grant Recipient: _____

EECBG Sub-Grant Number: _____

I. Employee Interview: (To be completed by the Sub-Grantee)

Name of Contractor or Subcontractor (Employer): _____

Name of Employee being interviewed: _____

Home-Street Address _____ City _____ State _____ Zip Code _____

Employee Interview Questions

1. What is your Work Classification? _____

2. What is your Regular Hourly Rate of Pay: _____

3. Please describe your Duties: _____

4. Are you paid at Least Time and One-half for All Overtime hours worked? ____ Yes ____ No
[In Maryland, overtime occurs when hours worked are in excess of 8 hours/day and/or 40 hours/week]

5. Have you ever been Threatened, Intimidated, or Coerced into Giving up Any Part of Your Pay? ____ Yes ____ No

6. What Tools or Equipment do you use? _____

Site Observations

7. Is the Davis-Bacon Act Compliance Poster posted on the worksite? ____ Yes ____ No

8. Are the Davis-Bacon wage rate determinations posted on the worksite? ____ Yes ____ No

Duties Observed by Interviewer: _____

Comments by Employee: _____

Comments by Interviewer: _____

Signature of Interviewer: _____ Date: _____

Signature of Employee: _____ Date: _____

3. Upon interview completion, please forward the DBA Interview Record to MEA at 60 West St, Suite 300, Annapolis, MD 21401.

II. Desk Top Monitoring After Interview: (To be completed by MEA after the interview record is sent to MEA by the Sub-Grantee)

Verification from Payroll Number for Week Ending: _____

Total Regular Hours Worked: _____

Total Overtime Hours Worked: _____

Rate of Pay for Regular Hours Rate of Pay for over Time Hours: _____

Does Information Comply with the Davis Bacon Wage Rate? ____ Yes ____ No

If No, Explain: _____

Davis-Bacon Wage Determinations

http://www1.eere.energy.gov/wip/docs/md_20100507.xls

Appendix A

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Davis-Bacon Compliance Poster

<http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:
1-866-4-USWAGE
(1-866-487-9243) TTY: 1-877-889-5627



WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Employment Standards Administration | Wage and Hour Division

WH 1321 (Revised April 2008)

Exemptions to Davis-Bacon Act Requirements

- Davis-Bacon does not apply if one of the following conditions are met:
 1. The project involves an appliance replacement (i.e. a refrigerator replacement).
 2. The contractor completing the work is a “bona fide” exempt owner (the business is incorporated).
 3. The sub-grantee is using staff employees to install the measures.

*If any of these exemptions are leveraged, please
Document this information with your Account Manager.